

**IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT**

<p>BROADBAND ITV, INC., <i>Plaintiff-Appellant,</i></p> <p style="text-align: center;">v.</p> <p>AMAZON.COM, INC., <i>Defendant-Appellee.</i></p>
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No. 23-1107

**BROADBAND ITV INC.’S UNOPPOSED MOTION FOR  
A 59-DAY EXTENSION OF TIME TO FILE ITS OPENING BRIEF**

Pursuant to Federal Rule of Appellate Procedure 26(b) and this Court’s Rule 26(b), Appellant Broadband iTV, Inc. respectfully moves for a 59-day extension of time to file its opening brief in the above-captioned case. The opening brief is currently due on January 3, 2023. If this motion is granted, the brief will be due on March 3, 2023. Amazon.com, Inc.’s counsel has indicated that Amazon.com, Inc. does not oppose this motion and will not file a response.

This appeal arises from a summary judgment decision entered in the U.S. District Court for the Western District of Texas. *See Broadband iTV, Inc. v. Amazon.com, Inc., et al.*, No. 20-cv-00921 (W.D. Tex.). The district court granted Amazon.com, Inc.’s motion for summary judgment of invalidity as to the patents-in-suit.

Additional time is necessary because undersigned counsel did not participate in proceedings before the district court and was retained only recently for purposes

of appeal. The requested extension will allow counsel sufficient time to analyze the technology and legal issues underlying the dispute and prepare the opening brief. Counsel of record has also been, and will remain, heavily engaged with the press of other matters before this Court and other courts. Those matters include: an opening merits brief in *Abitron Austria GmbH, et al. v. Hetronic International, Inc.*, filed in the Supreme Court of the United States (No. 21-1043) on December 19, 2022; an opening merits brief in *Amgen Inc. v. Sanofi*, due in the Supreme Court of the United States (No. 21-757) on December 27, 2022; a reply brief in *Martinez v. ZoomInfo Technologies, Inc.*, due in the Ninth Circuit (No. 22-35305) on January 9, 2023; an opening brief in *Baxter International, Inc. v. Becton, Dickinson and Company*, due in the Federal Circuit (No. 22-2197) on January 30, 2023; and a response brief in *Merck Sharp & Dohme LLC v. Mylan Pharmaceuticals Inc.*, due in the Federal Circuit (No. 23-1013) on February 28, 2023.

Accordingly, Broadband iTV, Inc. respectfully requests a 59-day extension of time to file its opening brief, to and including March 3, 2023.

December 27, 2022

Respectfully submitted,

/s/ Jeffrey A. Lamken

Jeffrey A. Lamken

*Counsel of Record*

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**IN THE  
UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT**

BROADBAND ITV, INC.,

*Plaintiff-Appellant,*

v.

AMAZON.COM, INC.,

*Defendant-Appellee.*

No. 23-1107

**DECLARATION OF JEFFREY A. LAMKEN IN SUPPORT OF  
BROADBAND ITV, INC.'S UNOPPOSED MOTION FOR A  
59-DAY EXTENSION OF TIME TO FILE ITS OPENING BRIEF**

I, Jeffrey A. Lamken, hereby declare:

1. I am a partner in the law firm MoloLamken LLP and counsel for Appellant Broadband iTV, Inc. (“BBiTV”). I am over the age of 18 and have personal knowledge of the matters set forth herein.

2. I submit this declaration in support of Appellant BBiTV’s Unopposed Motion for a 59-Day Extension of Time To File Its Opening Brief.

3. Counsel for BBiTV informed counsel for Appellee Amazon.com, Inc. (“Amazon”) of this extension motion. Amazon’s counsel has indicated that Amazon does not oppose the motion and will not file a response.

4. BBiTV’s opening brief is currently due on January 3, 2023. If this motion is granted, the brief will be due on March 3, 2023.

5. Additional time is necessary because undersigned counsel did not participate in proceedings before the district court and was retained only recently for purposes of appeal. The requested extension will allow counsel sufficient time to analyze the technology and legal issues underlying the dispute and prepare the opening brief.

6. Additionally, counsel responsible for preparing the opening brief has been heavily engaged with the press of other matters before this and other courts. Those matters include: an opening merits brief in *Abitron Austria GmbH, et al. v. Hetronic International, Inc.*, filed in the Supreme Court of the United States (No. 21-1043) on December 19, 2022; an opening merits brief in *Amgen Inc. v. Sanofi*, due in the Supreme Court of the United States (No. 21-757) on December 27, 2022; a reply brief in *Martinez v. ZoomInfo Technologies, Inc.*, due in the Ninth Circuit (No. 22-35305) on January 9, 2023; an opening brief in *Baxter International, Inc. v. Becton, Dickinson and Company*, due in the Federal Circuit (No. 22-2197) on January 30, 2023; and a response brief in *Merck Sharp & Dohme LLC v. Mylan Pharmaceuticals Inc.*, due in the Federal Circuit (No. 23-1013) on February 28, 2023.

7. A 59-day extension will give counsel the necessary time to prepare BBiTV's opening brief.

\* \* \* \* \*

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: December 27, 2022, in Washington, D.C.

/s/ Jeffrey A. Lamken

Jeffrey A. Lamken

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*Counsel for Broadband iTV, Inc.*

**UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT****CERTIFICATE OF INTEREST****Case Number** 2023-1107**Short Case Caption** Broadband iTV, Inc. v. Amazon.com, Inc.**Filing Party/Entity** Broadband iTV, Inc.

**Instructions:** Complete each section of the form. In answering items 2 and 3, be specific as to which represented entities the answers apply; lack of specificity may result in non-compliance. **Please enter only one item per box; attach additional pages as needed and check the relevant box.** Counsel must immediately file an amended Certificate of Interest if information changes. Fed. Cir. R. 47.4(b).

I certify the following information and any attached sheets are accurate and complete to the best of my knowledge.

Date: 12/27/2022Signature: /s/ Jeffrey A. LamkenName: Jeffrey A. Lamken

[illegible]☐ Additional pages attached



**4. Legal Representatives.** List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

☐ None/Not Applicable

☐ Additional pages attached


**5. Related Cases.** Provide the case titles and numbers of any case known to be pending in this court or any other court or agency that will directly affect or be directly affected by this court's decision in the pending appeal. Do not include the originating case number(s) for this case. Fed. Cir. R. 47.4(a)(5). See also Fed. Cir. R. 47.5(b).

☐ None/Not Applicable

☐ Additional pages attached


**6. Organizational Victims and Bankruptcy Cases.** Provide any information required under Fed. R. App. P. 26.1(b) (organizational victims in criminal cases) and 26.1(c) (bankruptcy case debtors and trustees). Fed. Cir. R. 47.4(a)(6).

☐ None/Not Applicable

☐ Additional pages attached


**CERTIFICATE OF INTEREST**  
**Addendum to Question 4**

**4. Legal Representatives.** List all law firms, partners, and associates that (a) appeared for the entities in the originating court or agency or (b) are expected to appear in this court for the entities. Do not include those who have already entered an appearance in this court. Fed. Cir. R. 47.4(a)(4).

The following counsel appeared for Appellant in the originating court:

**KRAMER DAY ALBERTI LIM TONKOVICH & BELLOLI LLP**

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**UNITED STATES COURT OF APPEALS  
FOR THE FEDERAL CIRCUIT****CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMITATIONS****Case Number:** 2023-1107**Short Case Caption:** Broadband iTV, Inc. v. Amazon.com, Inc.**Instructions:** When computing a word, line, or page count, you may exclude any items listed as exempted under Fed. R. App. P. 5(c), Fed. R. App. P. 21(d), Fed. R. App. P. 27(d)(2), Fed. R. App. P. 32(f), or Fed. Cir. R. 32(b)(2).

The foregoing filing complies with the relevant type-volume limitation of the Federal Rules of Appellate Procedure and Federal Circuit Rules because it meets one of the following:

- ☒ the filing has been prepared using a proportionally-spaced typeface and includes 855 words.
- ☐ the filing has been prepared using a monospaced typeface and includes \_\_\_\_\_ lines of text.
- ☐ the filing contains \_\_\_\_\_ pages / \_\_\_\_\_ words / \_\_\_\_\_ lines of text, which does not exceed the maximum authorized by this court's order (ECF No. \_\_\_\_\_).

Date: 12/27/2022Signature: /s/ Jeffrey A. LamkenName: Jeffrey A. Lamken